

NOT TO BE PUBLISHED

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Sacramento)

THE PEOPLE,

Plaintiff and Respondent,

v.

CARLOS ALBERTO RAMIREZ,

Defendant and Appellant.

C042356
(Sup.Ct.No. 02F00669)

Defendant Carlos Alberto Ramirez appeals his conviction for assault with intent to commit rape (Pen. Code, § 220¹), with a true finding that he personally used a deadly weapon (§ 12022, subd. (b)(1)), and an admission that he suffered a prior serious felony conviction (§§ 667, subd. (a) & subds. (b)-(i)). Defendant was sentenced to an aggregate term of 14 years in state prison, with various fines and fees imposed. He was awarded 27 days credit for actual time served.

¹ Unless otherwise indicated, all further statutory references are to the Penal Code.

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wende* (1979) 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

As noted by appellate counsel to the trial court, the court failed to calculate defendant's good time credits under section 2933.1. Under section 2933.1, defendant was entitled to 4 days of conduct credit, in addition to the 27 days of actual custody credit, for a total of 31 days of credit. We presume defendant did not raise this point on appeal because he appropriately brought it to the attention of the trial court. (*People v. Fares* (1993) 16 Cal.App.4th 954.) However, we can find no indication in the record on appeal that the trial court corrected this error. In the event the trial court has not yet corrected this error, we order the court to do so.

DISPOSITION

The judgment is modified to reflect 27 actual days served and presentence conduct credit of 4 days under section 2933.1. The superior court is to prepare an amended abstract of judgment

and forward a certified copy to the Department of Corrections
and the parties. As modified, the judgment is affirmed.

MORRISON, J.

We concur:

BLEASE, Acting P.J.

RAYE, J.